

**GORDON & REES LLP**  
90 Broad Street, 23rd Floor  
New York NY, 10004  
Tel: 212-269-5500  
Fax: 212-269-5505  
Christopher B. Block, Esq.  
[CBlock@GordonRees.com](mailto:CBlock@GordonRees.com)

**Hearing Date: December 17, 2010**  
**Hearing Time: 2:30pm**

*Attorneys for BP Microsystems, L.P.*

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

|                                     |   |
|-------------------------------------|---|
| .....X                              |   |
| In re:                              | : |
|                                     | : |
| DELPHI CORPORATION, <u>et al.</u> , | : |
|                                     | : |
| Debtors,                            | : |
|                                     | : |
| .....X                              |   |
| DELPHI CORPORATION, <u>et al.</u> , | : |
|                                     | : |
| Plaintiffs,                         | : |
| - against -                         | : |
|                                     | : |
| BP, BP AMOCO CORP, BP MICROSYSTEMS  | : |
| INC., BP PRODUCTS NORTH AMERICA,    | : |
| CASTROL, CASTROL INDUSTRIAL AND     | : |
| UNIFRAX CORP.,                      | : |
|                                     | : |
| Defendants.                         | : |
| .....X                              |   |

Chapter 11  
Case No. 05-44481 (RDD)  
Jointly Administered

Adv. Pro. No. 07-02270 (RDD)

**RESPONSE AND BRIEF OF BP MICROSYSTEMS, L.P. IN OPPOSITION TO**  
**REORGANIZED DEBTORS' MOTION FOR LEAVE TO FILE AMENDED**  
**COMPLAINTS**

BP Microsystems, L.P. ("BP Micro"), by and through its counsel, Gordon & Rees LLP,  
files this Opposition to Reorganized Debtors' Motion for Leave to File Amended Complaints.

### **RESPONSE**

1. On or about March 22, 2010, BP Micro first learned that it and six other unrelated defendants had been sued over 2 1/2 years earlier in this preference action (07-02270) seeking to avoid \$4.5 million in allegedly preferential transfers (“Preference Action”).

2. On May 14, 2010, BP Micro filed its Motion Seeking An Order Under FRCP 60, FRBP 9024, FRCP 12(B), FRBP 7012(B), and Alternatively Under FRCP 12(E) and FRBP 7012(E), seeking dismissal of the Preference Action [Docket #30].

3. On September 7, 2010, the Court entered its Order Granting In Part First Wave Motions to Dismiss (“First Wave Order”) [Docket #39 in Case 07-02270; Docket #20579 in Case 05-44481], which ordered in paragraph 2 that:

The Debtors have abandoned any claim in all of the Adversary Proceedings against any Defendant that received transfers from the Debtors with an aggregate value to or for the benefit of the transferee that is less than \$250,000 during the 90 days preceding their respective petition dates, and all such claims in the Adversary Proceedings are DISMISSED with prejudice.

4. On September 7, 2010, in abrogation of this Court’s First Wave Order, the Reorganized Debtors filed their Motion for Leave To File Amended Complaints, accompanied by a First Amended Complaint [Docket #37 in Case 07-02270; Docket #20575 in Case 05-44481], seeking to recover transfers from BP Micro which were dismissed by this Court’s First Wave Order, as evidenced by the schedule attached to the First Amended Complaint, which alleges transfers of BP Micro totaling less than \$250,000 (actually \$138,767.20).

### **CONCLUSION**

5. Accordingly, BP Micro respectfully requests that the Court deny the Reorganized Debtors’ Motion for Leave To File Amended Complaints in part as to BP Micro, as all claims

alleged against BP Micro in the First Amended Complaint were dismissed with prejudice through the Court's First Wave Order.

**MEMORANDUM OF LAW**

6. The legal points and authorities upon which this motion relies are incorporated herein. BP Micro therefore respectfully requests that the requirement of filing a separate memorandum of law under Local Rule 9013-1(b) be deemed satisfied.

7. WHEREFORE, for all of the foregoing reasons, BP Micro respectfully requests that the Court deny the Reorganized Debtors' Motion for Leave To File Amended Complaints in part as to BP Micro, dismiss the First Amended Complaint in part as to BP Micro, and for such other and further relief as this Court may deem appropriate.

Dated: New York, New York  
November 19, 2010

/s/ Christopher B. Block  
Christopher B. Block, Esq.

TO: Butzel Long, A Professional Corporation  
380 Madison Avenue – 22<sup>nd</sup> Floor  
New York, New York 10017  
Attn: Eric B. Fisher, Esq.  
Barry N. Seidel, Esq.

Butzel Long, A Professional Corporation  
150 West Jefferson – Suite 100  
Detroit, Michigan 48226  
Attn: Cynthia J. Haffey, Esq.

Togut, Segal & Segal LLP  
One Penn Plaza – Suite 3335  
New York, New York 10119  
Attn: Albert Togut, Esq.

Hodgson Russ, LLP  
The Guaranty Building  
140 Pearl Street, Suite 100  
Buffalo, New York 14202-4040  
Attn: Julia S. Kreher, Esq.  
Michael E. Reyen, Esq.

Hodgson Russ, LLP  
60 East 42<sup>nd</sup> Street  
New York, New York 10165  
Attn: Deborah J. Piazza, Esq.